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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,283

03/16/2004

David Cooper

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09/26/2006

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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,283

Applicant(s)

COOPER ET AL.

Examiner

Corey N. Skurdal

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3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "plurality of wheels connected to the load carrying platform section" of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 24-26 have been renumbered 23-25.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart (US D352,925) in view of Goodness (US 5,842,615).

Regarding claims 1, and 7-8, Eckhart (shown Figure A below) discloses the invention substantially as claimed including: a hitch support member 2 capable of being mounted to the rear of a vehicle; a vertical support member 4 connected to the hitch support; a first horizontal crossbar 6 connected to the vertical support; a second horizontal crossbar 8 disposed above the first crossbar; and a plurality of transverse bars 10 and 12 connected transversely to the horizontal crossbars, the transverse bars able to secure the load. Eckhart does not have a load-carrying platform. However, Goodness teaches the use of a load-carrying platform 118 connected to hitch member

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58 (Figure 24) for supporting one end of a pair skis. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Eckhart with a carrying platform attached to the hitch member in order to prevent articles from falling beneath the upper rack.

Regarding claim 12, the modified Eckhart device discloses the invention with horizontal connecting members 14 and 16 (Figure A below) further connecting the transverse bars, and located opposite the horizontal crossbars.

Regarding claim 13, the modified Eckhart device discloses the claimed invention wherein the platform is made from metal grating (col. 17 lines 59-62). Eckhart further teaches the use of steel as a common metal (col. 23 lines 11-13), effectively satisfying the claims.

5. Claims 2-3, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness, as applied to claim 1 in paragraph 4 above, and further in view of Davies (US 4,189,074).

Regarding claims 2-3 and 22, the modified Eckhart device discloses the invention substantially as claimed and as applied to claim 1, including a fixed transverse bar attached to each end of the horizontal bars, but does not have an adjustable transverse bar slidingly disposed on the horizontal crossbars. However, Davies (Figure 5) teaches the use of sliding transverse bars 76 with clamping assemblies (described col. 3 lines 53-62) for adjustably securing articles between the bars. The sliding transverse bars are located between horizontal members 57 and 58. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the middle transverse

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bars of Eckhart with adjustable sliding assemblies for a more secure attachment of articles.

Regarding claim 14, the modified Eckhart device does not have rubber padding attached to the transverse bars. However, Davies also teaches the use of rubber-padding 74 attached to transverse bars 76 (col. 3 line 34). Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Eckhart device with padding around the transverse bars in order to protect the articles held there between.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness, as applied to claim 1 in paragraph 4 above, and in further view of Belinky (US 6,006,973). The modified Eckhart device discloses the claimed invention as applied to claim 1, but does not specify having raised sides on the load-carrying platform. However, Belinky teaches the use of raised sides 40. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Eckhart device with raised sidewalls to further prevent articles from falling off the platform.

7. Claims 5-6, 9-10, 15-16, 18-21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness, as applied to claims 1, 7, and 8 in paragraph 4, and in further view of Lane (US 6,662,983).

Regarding claim 5-6 and 9-10, the modified Eckhart device discloses the claimed invention with a carrying platform, hitch support, vertical support, horizontal supports, and transverse bars, but does not have a vertical extension with a hole-through, or a

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second horizontal crossbar with an adjustable vertical section. However, Lane teaches a rack system for mounting to a rear vehicle hitch including: a hitch with vertical extension 3; vertical support member 8; hole-through supports along 8; and vertical section 11 attached to an upper horizontal crossbar, the vertical section having mating holes 6 for adjusting the rack height. Therefore it would have been obvious to one skilled in the art at the time of invention to make the carrier of Eckhart with separate parts, i.e. a vertical extension, and a vertical section with mating holes, in order to create a carrier with adjustable heights and dimensions.

Regarding claim 15-16 and 18 the method steps as claimed would be effectively satisfied in the normal operation or use of the modified Eckhart device.

Regarding claim 19, the modified Eckhart device discloses the claimed invention with a load carrying platform, a hitch support member, a vertical support member, a means for adjusting the height of the vertical support, and transverse bars for securing the load to the vertical support.

Regarding claim 20, the modified Eckhart device disclose the claimed invention wherein the securing means would orient a load in an upright manor.

Regarding claims 21 and claim 23, the modified Eckhart device discloses the claimed invention wherein the means for securing the load is comprised of first and second horizontal crossbars 6,8 with a plurality of transverse bars 10,12 connected thereto, the load platform supporting the load and the transverse bars securing the load.

Regarding claim 24, the modified Eckhart device discloses the invention with horizontal connecting members 14 and 16 further connecting the transverse bars, and located opposite the horizontal crossbars.

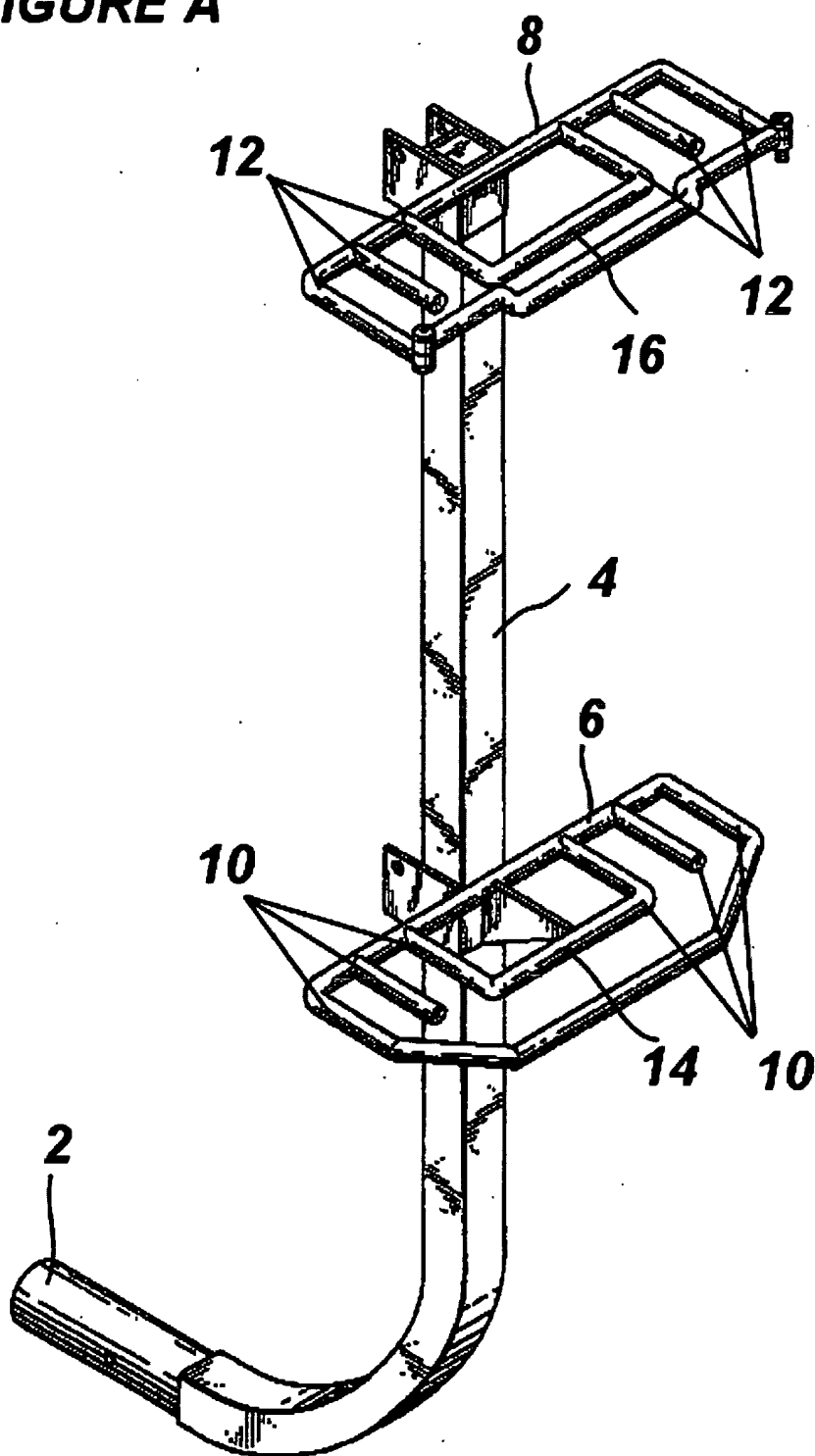
8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness, as applied to claim 1 in paragraph 4 above, and in further view of DuRant (US 6,802,441). The modified Eckhart device discloses the claimed invention as applied to claim 1, but does not disclose a plurality of wheels connected to the load-carrying platform. However, DuRant discloses a carrier mounted behind a vehicle with a load-carrying platform 101 with a plurality of wheels 203 attached. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Eckhart device with wheels on the platform in order to make the carrier moveable when not in use with a hitch.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness and Lane, as applied to claim 16 in paragraph 7, and in further view of Davies. The modified Eckhart device discloses the claimed method but does not have slidingly adjustable transverse bars. However, Davies teaches the use of slidingly adjustable transverse bars as applied in paragraph 4 above. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the middle transverse bars of Eckhart with adjustable sliding assemblies for a more secure attachment of articles, and as such, the method steps as claimed would be effectively satisfied in the normal operation or use of the modified Eckhart device.

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10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckhart in view of Goodness and Lane, and in further view of Belinky. The modified Eckhart device discloses the claimed invention wherein the platform is made from metal grating (col. 17 lines 59-62). Eckhart further teaches the use of steel as a common metal (col. 23 lines 11-13), effectively satisfying the claims. The modified Eckhart device does not have raised side on the platform. However, Belinky teaches the use of raised sides 40. Therefore it would have been obvious to one skilled in the art at the time of invention to provide the modified Eckhart device with raised sidewalls to further prevent articles from falling off the platform.

FIGURE A



Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. -Cohen US 2005/0082329 -Kohls US 3,854,641

-Stein US 6,039,228 -Stein US 6,010,049

-Mitchell US 6,712,248 -van Veenen US 5,842,615

-Lipp US 5,476,202 -Hirschfeld US 5,443,189

-Kesler US 3,972,457 -Ott US D327,043

-Ming US 6,598,753

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS


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SUPERVISORY PATENT EXAMINER